

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DOCKET NO. 05-30074-MAP

TAMMY WALKER,)
Plaintiff)
)
v.)
)
CITY OF HOLYOKE,)
Defendant)

DEFENDANT'S MOTION TO COMPEL
PLAINTIFF'S TAX RETURNS

NOW COMES the defendant, City of Holyoke, and hereby moves, pursuant to Rule 37(a)(2), that this Court order plaintiff Tammy Walker to provide the defendant with a signed Form 4506 Request for Copy of Tax Returns for 2003, 2004, 2005 and 2006, pursuant to Rule 34. The defendant also requests that this Court allow the defendant to continue with the plaintiff's deposition upon receipt of her tax returns, if necessary. In support of this motion, the defendant states:

1. On June 11, 2004, the defendant served, pursuant to Mass. R. Civ. P. 34, requests for production of documents upon the plaintiff Tammy Walker. Request Number 10 states as follows:

Copies of all W-2's and Federal Income Tax returns of the Plaintiff, for the years 2002 to date.

2. On June 9, 2006, plaintiff provided her response to the document requests to defense counsel. Response Number 10 included Federal Tax Returns for 2001 and 2002 only.
3. On December 22, 2006 and January 22, 2007, defense counsel corresponded with plaintiff's counsel, Ozell Hudson, requesting that plaintiff supplement her

responses with tax returns from 2003, 2004 and 2005 or, in the alternative, sign a Form 4506 Request for Copy of Tax Return. (See Exhibits A and B: Correspondence to Ozell Hudson, Esq. with enclosed Form 4506, December 22, 2006 and January 22, 2007.)

4. On February 21, 2007, the parties appeared at a status conference before this Court during which plaintiff's counsel was ordered to provide outstanding tax returns by March 16, 2007. The Court further ordered that plaintiff's deposition be completed by March 30, 2007. (See Exhibit C: Further Scheduling Order, February 23, 2007)
5. On March 21, 2007, defendant, having not received the requested tax information by the March 16, 2007 deadline, corresponded with Attorney Hudson requesting copies of Ms. Walker's tax returns by March 23, 2007 in order to allow defendant's counsel to prepare for Ms. Walker's deposition scheduled on March 27, 2007. (See Exhibit D: Correspondence to Ozell Hudson, Esq., March 21, 2007)
6. On March 22, 2007, Attorney Hudson forwarded correspondence stating he had no other tax records in his possession, custody or control and that Ms. Walker did not have access to the requested documents. (See Exhibit E: Correspondence from Ozell Hudson, Jr., Esq., March 22, 2007). He ignored the request for signed authorizations via Form 4506.
7. To date, Defendants have not received plaintiff's tax returns or a signed release in which to obtain said documents, despite the Court's order of February 23, 2007.
8. Plaintiff has made a claim for lost wages. Therefore, the defendant has a right to Ms. Walker's tax returns.

As plaintiff's deposition is scheduled for March 27, 2007 in order to comply with the Court's scheduling order, the defendant requests the right to continue plaintiff's deposition upon receipt and review of Ms. Walker's tax returns, if necessary.

WHEREFORE, the defendant, City of Holyoke, prays for an order compelling the plaintiff to provide defense counsel with a signed Form 4506 Request for Copy of Tax Returns for 2003, 2004, 2005 and 2006 within seven (7) days and allow defendant to continue Ms. Walker's deposition, if necessary, following the receipt of the tax returns.

The Defendants,
CITY OF HOLYOKE,

By Its Attorneys
MORRISON MAHONEY LLP

/s/ Carole Sakowski Lynch
Carole Sakowski Lynch, BBO# 547718
1500 Main Street, Suite 2400
P.O. Box 15387
Springfield, MA 01115-5387
(413) 737-4373
(413) 739-3125 (Fax)

CERTIFICATE OF CONSULTATION

By correspondence, dated March 21, 2007, which is Exhibit D, counsel for the defendant requested plaintiff's compliance with this court's order, dated February 23, 2007. Plaintiff's counsel has failed to comply as evidenced by correspondence, dated March 22, 2007, which is Exhibit E.

/s/ Carole Sakowski Lynch
Carole Sakowski Lynch, BBO# 547718

I hereby certify that this document, filed through the ECF System, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be sent to those indicated as non-registered participants on March 26, 2007.

/s/ Carole Sakowski Lynch

MORRISON MAHONEY LLP

COUNSELLORS AT LAW

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MASSACHUSETTS	NEW HAMPSHIRE
BOSTON	MANCHESTER
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SPRINGFIELD	PARSIPPANY
WORCESTER	NEW YORK
CONNECTICUT	NEW YORK
HARTFORD	
ENGLAND	RHODE ISLAND
LONDON	PROVIDENCE

Carole Sakowski Lynch
Phone: 413-737-4373 Ext 1233
clynch@morrisonmahoney.com

December 22, 2006

Ozell Hudson, Jr., Esq.
434 Massachusetts Avenue, Suite 402
Boston, MA 02118

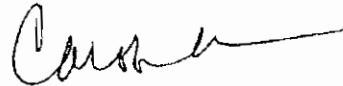
Re: Tammy Walker v. City of Holyoke
Docket No.: 05-30074-MAP
Our File No.: 10007547

Dear Attorney Hudson:

This letter is to request that you supplement plaintiff's response to defendant's request for documents # 10 which asks for all defendant's W-2's and Federal income tax returns for the years 2002 to date. In response, we were provided with the plaintiff's 2001 and 2002 tax returns. Please provide our office with Ms. Walker's 2003, 2004 and 2005 tax returns. In the alternative, Ms. Walker may sign the enclosed authorization and return it to our office so we may obtain the requested information.

Thank you very much.

Very truly yours,



Carole Sakowski Lynch

CSL/saw
Enclosure

Form 4506 (Rev. November 2005) Department of the Treasury Internal Revenue Service	Request for Copy of Tax Return ▶ Do not sign this form unless all applicable lines have been completed. Read the instructions on page 2. ▶ Request may be rejected if the form is incomplete, illegible, or any required line was blank at the time of signature.	OMB No. 1545-0429
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Tip: You may be able to get your tax return or return information from other sources. If you had your tax return completed by a paid preparer, they should be able to provide you a copy of the return. The IRS can provide a Tax Return Transcript for many returns free of charge. The transcript provides most of the line entries from the tax return and usually contains the information that a third party (such as a mortgage company) requires. See Form 4506-T, Request for Transcript of Tax Return, or you can call 1-800-829-1040 to order a transcript.

1a Name shown on tax return. If a joint return, enter the name shown first. <div style="text-align: center; font-size: 1.2em;">Tammy Walker</div>	1b First social security number on tax return or employer identification number (see instructions) <div style="text-align: center;">[REDACTED]</div>
2a If a joint return, enter spouse's name shown on tax return	2b Second social security number if joint tax return

3 Current name, address (including apt., room, or suite no.), city, state, and ZIP code

4 Previous address shown on the last return filed if different from line 3

5 If the tax return is to be mailed to a third party (such as a mortgage company), enter the third party's name, address, and telephone number. The IRS has no control over what the third party does with the tax return.

Carole Sakowski Lynch, Esq. (413) 737-4373
 Morrison Mahoney, LLP, 1500 Main Street, Suite 2400, PO Box 15387, Tower Square, Springfield, MA 01115-5387

Caution: If a third party requires you to complete Form 4506, do not sign Form 4506 if lines 6 and 7 are blank.

6 Tax return requested (Form 1040, 1120, 941, etc.) and all attachments as originally submitted to the IRS, including Form(s) W-2, schedules, or amended returns. Copies of Forms 1040, 1040A, and 1040EZ are generally available for 7 years from filing before they are destroyed by law. Other returns may be available for a longer period of time. Enter only one return number. If you need more than one type of return, you must complete another Form 4506. ▶
Note: If the copies must be certified for court or administrative proceedings, check here. ☐

7 Year or period requested. Enter the ending date of the year or period, using the mm/dd/yyyy format. If you are requesting more than eight years or periods, you must attach another Form 4506.

12 / 31 / 2003	12 / 31 / 2004	12 / 31 / 2005	/ /
/ /	/ /	/ /	/ /

8 Fee. There is a \$39 fee for each return requested. Full payment must be included with your request or it will be rejected. Make your check or money order payable to "United States Treasury." Enter your SSN or EIN and "Form 4506 request" on your check or money order.	<div style="border-bottom: 1px solid black; margin-bottom: 5px;">\$ 39.00</div> <div style="border-bottom: 1px solid black; margin-bottom: 5px;">3</div> <div style="border-bottom: 1px solid black;">\$ 117.00</div>
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9 If we cannot find the tax return, we will refund the fee. If the refund should go to the third party listed on line 5, check here ☐

Signature of taxpayer(s). I declare that I am either the taxpayer whose name is shown on line 1a or 2a, or a person authorized to obtain the tax return requested. If the request applies to a joint return, either husband or wife must sign. If signed by a corporate officer, partner, guardian, tax matters partner, executor, receiver, administrator, trustee, or party other than the taxpayer, I certify that I have the authority to execute Form 4506 on behalf of the taxpayer.

Sign Here Signature (see instructions) Title (if line 1a above is a corporation, partnership, estate, or trust) Spouse's signature	Date Telephone number of taxpayer on line 1a or 2a () Date
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MORRISON MAHONEY LLP

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MASSACHUSETTS BOSTON FALL RIVER SPRINGFIELD WORCESTER	NEW HAMPSHIRE MANCHESTER NEW JERSEY PARSIPPANY NEW YORK NEW YORK RHODE ISLAND PROVIDENCE
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January 22, 2007

SECOND REQUEST

Ozell Hudson, Jr., Esq.
434 Massachusetts Avenue, Suite 402
Boston, MA 02118

Re: Tammy Walker v. City of Holyoke
Docket No.: 05-30074-MAP
Our File No.: 10007547

Dear Attorney Hudson:

On December 22, 2006, we requested that you supplement plaintiff's response to defendant's request for documents # 10 regarding defendant's W-2's and Federal income tax returns from 2002 to date. In response, we were provided with the plaintiff's 2001 and 2002 tax returns. Please provide our office with Ms. Walker's 2003, 2004 and 2005 tax returns. In the alternative, Ms. Walker may sign the enclosed authorization and return it to our office so we may obtain the requested information.

Thank you very much.

Very truly yours,



Carole Sakowski Lynch

CSL/saw
Enclosure

Form 4506 (Rev. November 2005) Department of the Treasury Internal Revenue Service	Request for Copy of Tax Return ▶ Do not sign this form unless all applicable lines have been completed. Read the instructions on page 2. ▶ Request may be rejected if the form is incomplete, illegible, or any required line was blank at the time of signature.	OMB No. 1545-0429
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Tip: You may be able to get your tax return or return information from other sources. If you had your tax return completed by a paid preparer, they should be able to provide you a copy of the return. The IRS can provide a **Tax Return Transcript** for many returns free of charge. The transcript provides most of the line entries from the tax return and usually contains the information that a third party (such as a mortgage company) requires. See **Form 4506-T**, Request for Transcript of Tax Return, or you can call 1-800-829-1040 to order a transcript.

1a Name shown on tax return. If a joint return, enter the name shown first. <div style="text-align: center; font-size: 1.2em;">Tammy Walker</div>	1b First social security number on tax return or employer identification number (see instructions) <div style="text-align: center;">XXXXXXXXXX</div>
2a If a joint return, enter spouse's name shown on tax return	2b Second social security number if joint tax return <div style="text-align: center;">XXXXXXXXXX</div>

3 Current name, address (including apt., room, or suite no.), city, state, and ZIP code

4 Previous address shown on the last return filed if different from line 3

5 If the tax return is to be mailed to a third party (such as a mortgage company), enter the third party's name, address, and telephone number. The IRS has no control over what the third party does with the tax return.

Carole Sakowski Lynch, Esq. (413) 737-4373
 Morrison Mahoney, LLP, 1500 Main Street, Suite 2400, PO Box 15387, Tower Square, Springfield, MA 01115-5387

Caution: If a third party requires you to complete Form 4506, do not sign Form 4506 if lines 6 and 7 are blank.

6 Tax return requested (Form 1040, 1120, 941, etc.) and all attachments as originally submitted to the IRS, including Form(s) W-2, schedules, or amended returns. Copies of Forms 1040, 1040A, and 1040EZ are generally available for 7 years from filing before they are destroyed by law. Other returns may be available for a longer period of time. Enter only one return number. If you need more than one type of return, you must complete another Form 4506. ▶
Note. If the copies must be certified for court or administrative proceedings, check here. ☐

7 Year or period requested. Enter the ending date of the year or period, using the mm/dd/yyyy format. If you are requesting more than eight years or periods, you must attach another Form 4506.

12 / 31 / 2003	12 / 31 / 2004	12 / 31 / 2005	/ /
/ /	/ /	/ /	/ /

8 Fee. There is a \$39 fee for each return requested. Full payment must be included with your request or it will be rejected. Make your check or money order payable to "United States Treasury." Enter your SSN or EIN and "Form 4506 request" on your check or money order.	<table style="width: 100%;"> <tr> <td style="text-align: right;">a</td> <td>Cost for each return</td> <td style="text-align: right;">\$ 39.00</td> </tr> <tr> <td style="text-align: right;">b</td> <td>Number of returns requested on line 7</td> <td style="text-align: right;">3</td> </tr> <tr> <td style="text-align: right;">c</td> <td>Total cost. Multiply line 8a by line 8b</td> <td style="text-align: right;">\$ 117.00</td> </tr> </table>	a	Cost for each return	\$ 39.00	b	Number of returns requested on line 7	3	c	Total cost. Multiply line 8a by line 8b	\$ 117.00
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9 If we cannot find the tax return, we will refund the fee. If the refund should go to the third party listed on line 5, check here ☐

Signature of taxpayer(s). I declare that I am either the taxpayer whose name is shown on line 1a or 2a, or a person authorized to obtain the tax return requested. If the request applies to a joint return, either husband or wife must sign. If signed by a corporate officer, partner, guardian, tax matters partner, executor, receiver, administrator, trustee, or party other than the taxpayer, I certify that I have the authority to execute Form 4506 on behalf of the taxpayer.

<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> Sign Here Signature (see instructions) </div> <div style="width: 15%;"> Date </div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> Title (if line 1a above is a corporation, partnership, estate, or trust) </div> <div style="width: 15%;"> Date </div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> Spouse's signature </div> <div style="width: 15%;"> Date </div> </div>	Telephone number of taxpayer on line 1a or 2a ()
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For Privacy Act and Paperwork Reduction Act Notice, see page 2. Cat. No. 41721E Form **4506** (Rev. 11-2005)

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

TAMMY WALKER,)	
	Plaintiff)
)	
v.)	Civil Action No. 05-30074-MAP
)	
CITY OF HOLYOKE,)	
	Defendant)

FURTHER SCHEDULING ORDER
February 23, 2007

NEIMAN, U.S.M.J.

The following revised schedule was established at the case management conference held on February 21, 2007:

1. Plaintiff shall provide Defendant with her outstanding tax returns by March 16, 2007.
2. The remaining non-expert deposition of Plaintiff shall be completed by March 30, 2007.
3. With regard to expert discovery:
 - a. Plaintiff shall designate and disclose information regarding her trial experts as required by FED. R. CIV. P. 26(a)(2) by February 28, 2007.
 - b. Defendant may arrange for an independent medical examination of Plaintiff by April 20, 2007.
 - c. Defendant shall designate and disclose information regarding its experts as required by FED. R. CIV. P. 26(a)(2) by May 11, 2007.

- d. All expert depositions shall be completed by June 1, 2007.
- 4. With regard to dispositive motions:
 - a. Defendant shall file its motion for summary judgment by April 20, 2007.
 - b. Plaintiff shall file an opposition to said motion, if any, by May 25, 2007, to which Defendant may reply by June 1, 2007.

THERE SHALL BE NO FURTHER EXTENSIONS.

IT IS SO ORDERED.

February 23, 2007
Date

/s/ Kenneth P. Neiman
KENNETH P. NEIMAN
U.S. Magistrate Judge

MORRISON MAHONEY LLP

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March 21, 2007

VIA FACSIMILE – 617-267-0663
AND FIRST CLASS MAIL

Ozell Hudson, Jr., Esq.
434 Massachusetts Avenue, Suite 402
Boston, MA 02118

Re: Tammy Walker v. City of Holyoke
Docket No.: 05-30074-MAP
Our File No.: 10007547

Dear Attorney Hudson:

Pursuant to the recent court order, you were required to provide me with Ms. Walker's tax returns no later than March 16, 2007. As I will need to review the tax returns prior to Ms. Walker's deposition on March 27, please provide them to me immediately but no later than March 23. If I do not receive them by that date, I will have no choice but to file a motion with the court.

Very truly yours,



Carole Sakowski Lynch

CSL/esf

Ozell Hudson, Jr., Esq.

Law Offices

434 Massachusetts Avenue, Suite 402
Boston, Massachusetts 02118
Telephone (617) 267-0662
Fax (617) 267-0663
E-mail: Ohudsonlaw@AOL.com

March 22, 2007

BY MAIL and FACSIMILE 413-739-3125

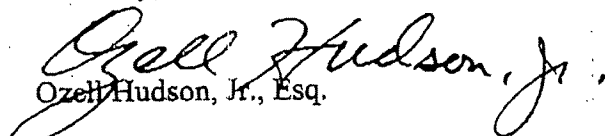
Carole Sakowski Lynch, Esq.
Morrison Mahoney
1500 Main Street
Post Office Box 15387
Springfield, Ma. 01115

Re: Tammy Walker v. City of Holyoke
Docket No. 05-30074-MAP

Dear Attorney Lynch:

This is in response to your letter addressed to me dated March 21, 2007. Plaintiff previously produced tax returns for 2001 and 2002. There are no other tax returns in my possession, custody, or control. Apparently, Ms. Walker's incarceration prevents her from accessing any other responsive documents.

Sincerely,


Ozell Hudson, Jr., Esq.

C.c. Tammy Walker

Ex. E